



**DONNA SEIDEL**  
**STATE REPRESENTATIVE**  
**85TH ASSEMBLY DISTRICT**

**Testimony of Rep. Donna Seidel**  
**Assembly Bill 605/Senate Bill 399**  
**Assembly Committee on Urban and Local Affairs**  
**February 24, 2010**

Good morning Chairwoman Berceau and fellow committee members. Thank you for this opportunity to testify in support of Assembly Bill 605 and Senate Bill 399. I wanted to start by letting you know that the Senate lead author on this proposal, Senator Kreitlow, intended to be here today but could not due to a scheduling conflict. He has done a tremendous amount of work in the Senate and Senator Lassa's committee will be voting on it tomorrow.

There are few things more important to economic growth than access to capital. It's something we hear about constantly in our discussions with economic development and local government leaders. That's why I was happy to work with the Wisconsin Counties Association and Senator Kreitlow to bring this bill forward.

As you know, with Senator Lassa's leadership, last month we were able to pass Senate Bill 440, which allows Wisconsin communities to tap into the billions of dollars worth of tax-exempt bonding made available to the state through the federal government. We already know that this tax-exempt financing will be responsible for the creation of over 600 jobs in the Wisconsin Rapids area, and we have heard that there are a number of additional job-producing projects across the state the will be moving forward in the near future. The bill before you today will build on SB 440 by providing additional financing options for our local governments at no cost to the state at a time when access to capital is more limited than ever.

This bill permits local units of government to join together to create local economic development financing authorities that will have the ability to issue tax-exempt bonds for projects that provide a public benefit. Allowing local units of government to join forces will enable them to pool their limited investment, financial and legal capacities, allowing them to reduce the cost of accessing the tax-exempt bond markets and generating the investor interest necessary to obtain lower interest rates. Without the ability to pool resources, most local units of government would lack the capacity to access the critical job creation tool that tax-exempt bonding provides.

Importantly, in this arrangement, the local unit of government will merely be acting as a conduit to access the tax-exempt bond market. The bonds issued by the financing authority would be the debt obligations of the private borrower, not the participating local government. As such, the local government would have no liability for repayment of the bonds and no taxpayer dollars are at risk.

What's more, this arrangement will contain a number of checks and balances to ensure that only the most worthwhile projects will move forward. No proposed project is eligible without a public hearing and approval from the local government in the jurisdiction in which the project resides. In addition, the Wisconsin Housing and Economic Development Authority (WHEDA) and the Wisconsin Health and Educational Facilities Authority (WHEFA) will both have a right of first refusal to prevent the Commission from having an unfair competitive advantage. Lastly, current law gives WHEDA final say over all tax exempt bonding authority in Wisconsin, putting the state in a strong supervisory role.

Job creation is our top priority and that's why Senator Kreitlow and I have worked extremely hard on this piece of legislation for well over a year now. We have met with a number of stakeholders and have tried our best to address all of their concerns. However, if any of you have any additional concerns we would be more than happy to discuss them with you. I realize that these provisions all sound extremely complicated in the abstract. Today you will be hearing from several economic development professionals from across the state that would be able to take advantage of the opportunities presented by this proposal and create real jobs in their areas.

Because we are aware of the complicated nature of this bill, Senator Kreitlow and I have invited Andy Phillips of the law firm Phillips Borowski to join us to discuss the technical aspects of the legislation. Thank you.



122 W. Washington Avenue  
Suite 300  
Madison, Wisconsin 53703-2715

608/267-2380  
800/991-5502  
Fax: 608/267-0645

E-mail: [league@lwm-info.org](mailto:league@lwm-info.org)  
[www.lwm-info.org](http://www.lwm-info.org)

To: Assembly Committee on Urban and Local Affairs  
From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities  
Date: February 24, 2010  
Re: **Support AB 605, Allowing Creation of a Local Government Economic Development Financing Authority**

The League of Wisconsin Municipalities supports AB 605, enabling two or more local governments to enter into an agreement creating a commission to be a national issuer of tax exempt conduit bonds.

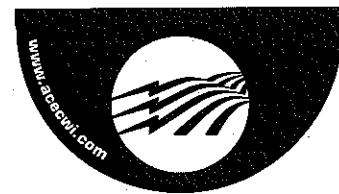
Under a conduit bond, a local government acts as a conduit for a private business -- providing access to the tax-exempt municipal bond market -- so that the business can borrow money at a lower interest rate than typically charged by financial institutions. Buyers of the municipal bond prefer these investments because they are tax-exempt, so that even if the bond pays a lower interest rate than other investments, the effective yield is actually higher because of the tax exemption. Conduit bonds carry no risk to the community issuing them. The borrower is responsible for repayment of the bond, not the local government that issues the bond.

The Wisconsin Counties Association initiated this bill so Wisconsin counties, cities, and villages may form a commission -- most likely made up of representatives from two or more Wisconsin local governments, the Wisconsin Counties Association, the League of Wisconsin Municipalities, National Association of Counties (NACo), and the National League of Cities -- to issue these conduit bonds.

The new commission would be patterned on the U.S. Communities joint purchasing program, which allows counties and other local governments to buy many goods and services at the lowest possible cost. Local governments, who have little or no experience with this new and important economic development tool, will be served by the commission in the same fashion. NACo and the National League of Cities favor making the commission national in its scope so that communities across the country can also make use of this tool; locating the commission in Wisconsin will result in tangible benefits to the state's financial services industry.

We urge you to recommend passage of AB 605. Thanks for considering our comments.

*STRONG COMMUNITIES MAKE WISCONSIN WORK*



## Adams-Columbia Electric Cooperative

From: John  
West, CFO

Adams-Columbia Electric Cooperative is a not-for-profit rural electric distribution cooperative headquartered in Adams County. Adams-Columbia's primary service area is located in the central Wisconsin counties of Adams, Marquette, Columbia and Waushara Counties and portions of Dodge, Green Lake, Wood, Sauk, Jefferson, Dane, Waupaca and Portage Counties. As of December 31, 2009, there were 32,391 members with 36,774 active electric services on our lines.

Adams-Columbia's 2010 capital budget includes construction and improvement projects just shy of \$7,000,000. These projects are to rebuild portions of our system for normal replacements (including road moves), additional capacity for increased loads and construction for new members and services. Budgeted projects range from \$2,600,000 for Adams County, \$1,400,000 for Waushara County, \$500,000 for Marquette County, and \$70,000 for Dodge County (where we have very little service territory). Projects in counties designated for Midwestern Disaster Area Bond Allocation total over \$5,000,000.

The ability for Adams-Columbia to utilize a commission for bond funding would help streamline our financing for projects in eligible counties. A commission would be a more cost-effective and efficient means of coordinating the efforts of the 12 counties in which our members reside.

The capital budget for Adams-Columbia's electric distribution system ranges from \$7 to \$10 million per year. If available, we could use the bonding program for financing projects in 2011 and 2012. Currently, the rates available to us for long term financing are 7.6%. If financing the \$5,000,000 for the 2010 projects was at tax-exempt rates at 5.6%, this would save Adams-Columbia's members \$100,000 per year. If financing was available for the next 2 years and the 2% savings were similar, we could save each of the 36,000 plus electric services over \$8 per year or enable additional project work to be completed. As a not-for-profit cooperative, savings go directly to members, not to a non-resident stockholder.

The seventh cooperative principal is "Concern for Community". Adams-Columbia is dedicated to help development in the communities within our service territory. We have economic development lending programs to help develop businesses in our service territory to add employment opportunities. The unemployment rate in Adams County for December, 2009 is 11.7% and 10.5% in Marquette County. An additional avenue for funding economic development projects could help all local communities.

Thank you for the opportunity to comment.

### Friendship Headquarters

401 E. Lake Street / P.O. Box 70  
Friendship, WI 53934

### Pardeeville Service Center

W6290 Hwy. 33 / P.O. Box 190  
Pardeeville, WI 53954

### Wautoma Service Center

N1519 Hwy. 22 / P.O. Box 900  
Wautoma, WI 54982

**CONTACT INFORMATION:**  
**Customer Service & Billing**  
**800-831-8629**

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**888-928-2232**

[www.acecwi.com](http://www.acecwi.com)

# **Adams County Administrative Coordinator**

402 Main Street P.O. Box 102 Friendship, WI 53934-0102

**Barbara A. Petkovsek, Administrative Coordinator / Director of Finance**

ElizaBeth A. Hendricksen, Administrative Assistant

Phone: 608-339-4577 Fax: 608-339-4509

[barb.petkovsek@co.adams.wi.us](mailto:barb.petkovsek@co.adams.wi.us)

[adminassist@co.adams.wi.us](mailto:adminassist@co.adams.wi.us)

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TO: Assembly Committee on Urban & Local Affairs

FROM: Barbara A. Petkovsek  
Adams County Administrative Coordinator

DATE: February 24, 2010

SUBJECT: Speaking in Support of Assembly Bill 605

Thank you for holding a public hearing on Assembly Bill 605. Adams County supports this bill which creates a commission made up of local governments whose primary goal would be to assist local governments to OFFER AN ADDITIONAL ECONOMIC DEVELOPMENT TOOL LOCALLY, PROVIDE TECHNICAL ASSISTANCE TO LOCAL GOVERNMENTS and CREATE INVESTMENT ECONOMIES OF SCALE.

Assembly Bill 605 authorizes the creation of a commission, which can act at the request of Wisconsin local governments including counties to issue conduit bonds for private entities engaged in public benefit projects; issue municipal revenue bonds for public purposes; and create market leverage through cooperative institutional relationships.

Many times small and medium sized counties do not have the specialized expertise to coordinate complicated bond issuance and post-issuance activities. This type of commission could provide one-stop resources to communities desiring to provide conduit bonding to grow existing businesses and offering new businesses access to the tax exempt bond. Adams County is one of the 30 counties that have been allocated \$50 million through the Midwest Disaster Assistance Bonds. These bonds have a time limit requiring local governments to act quickly in order to access these dollars to maintain jobs, create jobs and build infrastructure which are all critical to economic recovery. While we see maps and get notice of more than \$3 billion available for these 30 counties, it is difficult if not impossible to figure out how to access those dollars. Daric Smith, our RIDC Executive Director, says that the most difficult part of his job is trying to assist existing businesses and potential businesses with a financing component for their business plan.

Adams County has several projects ready to move forward with access to affordable financing.

- ACEC (Adams Columbia Electric Coop) has interest in working through a commission to use conduit bonding for infrastructure projects that meet the criteria of Midwest Disaster Assistance Bonds either allowing for additional work and/or potentially maintaining billing rates. The commission would be a great tool for ACEC as they service 12 counties with several of those counties in the Midwest Disaster designation.

- Mortenson Brothers Potato Farm are on the cusp of expansion and having the ability to possibly pool their project with other small projects to get great tax exempt rates through economies of scale will ensure growth of a local business whose product is 100% produced in Wisconsin and 90% processed in Wisconsin.
- Chula Vista, a major player in tourism in Wisconsin Dells/Adams County, has five projects that would potentially create 900 jobs if they had access to financing.

These are specific examples of the private sector in Adams County that would likely utilize the expertise of a commission to access tax-exempt bonds thus maintaining and creating construction jobs and permanent jobs associated with private expansions.

In closing, Adams County supports AB605 along with Wisconsin Counties Association, the League of Wisconsin Municipalities, the National Association of Counties and the National League of Cities. It is the creation of such a commission that will provide local governments, particularly small counties such as Adams County with a turn-key resource to evaluate public and private construction and infrastructure projects at the conceptual stage and guide eligible projects through the financing process. This could save individual local governments the cost of hiring necessary experts. This bill will provide options and opportunities in the financial environment for businesses to help grow Wisconsin across municipal, county and potentially, state lines.

We respectfully request the committee to support this vital legislation for our community.

Thank you.

## **MEMORANDUM**

TO: Honorable Members of the Assembly Committee on Urban and Local Affairs

FROM: Mark D. O'Connell, Executive Director  
Wisconsin Counties Association

DATE: February 24, 2010

SUBJECT: Support for Assembly Bill 605

In the midst of one of the country's deepest economic recessions, local governments and private businesses across the country are looking for financial resources and solutions to keep their communities growing. The Wisconsin Counties Association supports Assembly Bill 605 and believes it will provide communities with another economic development tool by expanding access to capital in both the public and private sectors.

Under current law, Wisconsin local governments may issue federally tax-exempt municipal bonds for public purposes and conduit bonds for private projects that serve a public benefit. Additionally, unique financing opportunities have recently been made available for the use of these development tools through \$3.8 billion in Midwest Disaster Assistance Bonds and \$238 million in Recovery Zone Facility Bonds. However, these financing opportunities have a time limit that requires local governments to act quickly in order to promote needed development in their communities.

Only governmental entities may issue tax-exempt bonds. The process is complex, expensive, time-consuming, and requires a host of professional service providers. The process becomes even more complex when a governmental entity acts as a conduit issuer on behalf of a private borrower. For many local governments that are under increasing pressure to provide additional services with fewer resources, devoting staff and financial resources to complex bond issuances and the required post-issuance compliance is not feasible.

Assembly Bill 605 authorizes the creation of a joint powers authority, or commission, which can act at the request of Wisconsin local governments to issue conduit bonds for private entities engaged in public benefit projects; issue municipal revenue bonds for public purposes; and, create market leverage through cooperative institutional relationships.

The creation of such a commission will provide local governments with a turn-key resource to evaluate public and private construction and infrastructure projects at the conceptual stage and shepherd eligible projects through the financing process - or refer them to WHEDA, WHEFA or the state Department of Commerce - saving individual local governments the financial burden of directly employing the necessary experts.

The commission would be patterned after the National Association of Counties joint purchasing program, which allows counties and other local governments to buy many goods and services at the lowest possible cost without having to bid or negotiate prices with vendors individually.

By streamlining issuance processes, creating efficiencies for local governmental issuers and reducing local governments' liability in conduit issuances, the commission will save local entities and eligible private borrowers millions of dollars and other valuable staff resources by providing a one-stop resource that coordinates complicated issuance and post-issuance activities. The commission would also:

- Offer local governments in Wisconsin another tool to promote economic development in their communities by growing existing businesses and offering new businesses access to the lower-cost municipal bond market.
- Create additional opportunities for private businesses to access low-cost, tax-exempt capital and increase the number of viable public benefit and public infrastructure projects.
- Create investment economies of scale for small public or private projects that may not otherwise have access to low-cost, tax-exempt bond markets due to their small size.
- Create construction jobs and permanent jobs associated with private expansions and relocations financed through municipal and conduit bonds.
- Generate savings for Wisconsin taxpayers by reducing the cost to local governments for necessary investments in public infrastructure projects.
- Enhance opportunities for Wisconsin's financial services industry by financing projects in Wisconsin and in other states.

The Wisconsin Counties Association, the League of Wisconsin Municipalities, the National Association of Counties and the National League of Cities believes support this legislation and believe it represents an important economic development tool for local governments around Wisconsin.

The Wisconsin Counties Association respectfully requests the Committee's support for AB 605. WCA also urges the committee to adopt Assembly Amendment 1, which conforms bonds issued by the commission to the same tax-exempt status as similar bonds issued by WHEDA, WHEFA, and other local governmental entities by removing its state tax-exempt status and gives WHEDA and WHEFA the first "right-of-refusal" for every project brought to the commission that might fall within their respective purviews.



## **Frequently Asked Questions (FAQ) Senate Bill 399 and Assembly Bill 605: The Creation of a Joint Powers Authority**

### **What is the purpose of the legislation?**

Senate Bill 399 and Assembly Bill 605 authorizes a joint powers authority created by an intergovernmental agreement to conduct conduit tax-exempt and taxable bond financings for a variety of public benefit projects on a state and national basis.

The joint powers authority will simplify the complex process of coordinating certain types of private-activity financings and make it less expensive. It will also permit public agencies to pool together across state and local jurisdictional boundaries in certain types of financings and recognize significant investment economies of scale and cost savings that they could not enjoy on a standalone basis.

The creation of the joint powers authority will reduce the cost of public finance and increase the access of local communities to financing for public benefit economic development activities.

### **What changes to the statutes does the legislation make?**

Wisconsin state statutes already provide local governments with broad intergovernmental powers, and such powers will provide the opportunity to create more economic development opportunities within Wisconsin. The proposed legislation does not expand what a Wisconsin local government can do, but provides clarity to allow local governments to act as a conduit bond issuer on a broader scope inside and outside of Wisconsin.

Wisconsin Statutes Section 66.0303 currently permits two or more government entities to join together and execute powers that are common among them. The legislation will clearly outline the ability to issue bonds within and outside of Wisconsin.

The proposed joint powers authority would have as its members two Wisconsin local governments and would be based in Wisconsin. The governing board would be made up of a majority of Wisconsin local governments.

### **Are there other joint powers authorities in Wisconsin?**

Yes. There are numerous joint powers authorities in Wisconsin that vary considerably in terms of their complexity. On the "simple" end of the spectrum, there are joint powers authorities whose purpose is limited to codifying a multi-jurisdictional mutual aid agreement. On the "complex" side, the Northshore Fire Department is a joint powers authority involving seven communities that have created a single fire department serving the area.

### **What are the advantages of creating a joint powers authority?**

Because of the ability of the joint powers authority to pool resources, local governments in Wisconsin will no longer face the administrative and financial burdens associated with handling a project individually. This will open up the financing markets to industries (i.e. manufacturers,

environmental, nonprofits, etc.) and public agencies that have not previously had access to the tax-exempt capital markets.

In addition, the rules governing tax exempt bond financing are designed to promote, among other things, alternative energy facilities – facilities that can be built in Wisconsin. Finally, there are many institutions that need to expand, but cannot afford expansion with limited access to the credit markets. A joint powers authority with pooled resources will be able to finance projects at a much more affordable rate than the private market or the current limited public market is able to offer.

Finally, by increasing its utilization of conduit financing, a local government creates an alternative to TIF financing. For instance, acting as a conduit issuer rather than creating a TIF enables communities to begin benefiting from greater property tax base immediately rather than wait for the close-out of the TIF in 20 years. When utilizing TIF districts, communities begin bearing the costs of the increased development in the TIF immediately, but do not receive an increased tax benefit for up to 20 years. Alternatively, communities utilizing conduit financing for private businesses can reap the benefits of an larger tax base immediately. Conduit financing will not replace the use of TIF districts, but it will add an additional economic development tool to local governments.

**What type of projects would be eligible for financing through the joint powers authority?**

Tax-exempt financing would be available for eligible public works and public infrastructure projects and private entities engaging in projects that provide a public benefit. The guidelines for which private projects are eligible for tax-exempt financing are established by the Federal Government and state government, not the joint powers authority.

The joint powers authority would provide cost-effective access to capital for local governments and create manufacturing jobs, alternative energy projects, small business facility expansions, build/rebuild wastewater treatment plants, refinance eligible debt among many other public benefit projects.

**Without the joint powers authority how do Wisconsin local governments access the tax-exempt markets?**

Local government entities go to the private bond market on a standalone basis and engage private finance professionals for each transaction at a much higher cost to achieve the same goal.

The joint powers authority will save local entities and eligible borrowers millions in public dollars, and other valuable staff resources by providing a one-stop resource that coordinates complicated issuance and post-issuance activities.

**Will the transparency and accountability standards that apply to Wisconsin public agencies apply to the joint powers authority?**

The joint powers authority will be a public agency in the State of Wisconsin. Therefore, all transparency and accountability requirements for public agencies in the State will be applicable to the joint powers authority. The joint powers authority will be subject to review through federal, state and local agencies by the following:

**Federal** – The Internal Revenue Service oversees the rules and regulations of bond issues and post-issuance compliance in order to establish and maintain the bonds' tax exempt status.

**State** – Certain projects will be subject to a volume cap including but not limited to development projects and solid waste projects. These projects will be subject to the volume cap rules and regulations established by the State Department of Administration for projects in Wisconsin, and by parallel state systems for projects in other states.

**Local** – Every project will require a public hearing in the jurisdiction where the project resides. This local hearing and approval requirement is more fully described under the Tax Equity and Fiscal Responsibility Act ("TEFRA") of 1982. This will allow public input and project approval by the local jurisdiction.

For projects that are not subject to volume cap limitations, the joint powers authority will establish guidelines and criteria requiring an applicant to identify the public benefit associated with proceeding with a project.

**Does a Wisconsin public agency or the State of Wisconsin incur any liability for participating in financings completed by the joint powers authority? Is a community's bond rating affected by the issuance of conduit bonds?**

No. The bonds issued by the joint powers authority are limited obligations of the authority, payable only out of the payments received on a loan to the ultimate borrower, and are not payable by the State of Wisconsin, a Wisconsin public agency or a local government who acts as a conduit issuer. The State of Wisconsin and Wisconsin public agencies are not responsible for any repayment of debt of the joint powers authority or for payment of and loans to the ultimate borrowers, nor are they named in any of the bond documents.

**Will it cost the State of Wisconsin or Wisconsin public agencies anything to become members of the joint powers authority?**

No. Membership is strictly voluntary and there are no membership fees charged to public agencies to participate in the joint powers authority.

**Why is the legislation national in its scope?**

The national scope of the JPA is premised on a cooperative purchasing program offered by the National Association of Counties and the National League of Cities known as U.S. Communities. U.S. Communities provides public agencies with significant costs savings for various goods and services based upon the purchasing power of public agencies working together. Over 36,000 public agencies nationwide have entered into an intergovernmental agreement to cooperatively purchase commodities such as office supplies, office furniture, copiers and other items used by

public agencies. The JPA is merely an expansion of this concept from commodities to services for financing and economic development opportunities.

The national scope will provide an economic tool for Wisconsin businesses that have multiple locations in other states. Instead of paying the costs to do separate financings in other states, one financing can be completed saving not only time but significant costs. This will allow public agencies to offer this tool to companies that may not have thought about tax-exempt financing because it would be too costly in multiple locations.

Created by local government, for local government, the national scope of the JPA would also lend assistance to local agencies in other states that recently received an allocation under various stimulus programs, including Midwestern Disaster Area Bonds. The notion of local agencies administering allocation is a completely new concept and many of those agencies no longer have the resources to facilitate either the issuance or post-issuance compliance process. A national JPA centered in Wisconsin would position the state as a leader in finding solutions for local communities to rebuild and recover difficult economic times, including areas in the Midwest that suffered from severe storms, tornados, and flooding.

**What does it cost Wisconsin state government to create a joint powers authority?**

Assembly Amendment 1 removes state tax-exempt status from the joint powers authority except in instances where WHEDA and WHEFA are already afforded the same status. As a result, the bill will not require any new funding from state or local governments. It simply allows private businesses to gain access to lower-cost loans through the tax-exempt municipal bond market.

**Will the commission compete with existing bond issuers?**

Assembly Amendment 1 prevents the commission from competing for projects eligible for WHEDA or WHEFA financing. The amendment gives WHEDA and WHEFA the first right of refusal over any project that would fall within their agencies' purview. It is intended for the commission to complement, not compete, with the work of the two agencies.